

# Native American Rights Fund

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April 1, 2015

Dennis McLerran, Regional Administrator  
US EPA Region 10  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

RE: Ch'u'itna Coal Development Project – Site Specific Criteria

Dear Dennis:

Thank you for the materials provided by your office on December 18, 2014 in response to our Freedom of Information Act request regarding proposed site specific water quality criteria and use reclassification for the Chuit River and its tributary creeks. These waters support essential fish habitat needed for anadromous Pacific salmon. Chuitna River Chinook are a stock of management concern, and the Native Village of Tyonek is concerned with the long term health and sustainability of wild salmon and other natural resources in the watershed.

Based on a brief review of the information, it appears that the Alaska Department of Environmental Conservation (ADEC) has drafted a decision to adopt site-specific criteria for waters within the proposed Chuitna project area. The proposal is to base amended criteria for Aluminum (Al), Copper (Cu), and Zinc (Zn) on toxicity tests and water effect ratios (WER). There are uncertainties related to the site-specific criteria derived using this approach that would allow higher levels of metals in the surface waters and would thus be less protective of salmonids.

We understand that data exists to support the notion that natural background concentrations of some metals (Al, Cu, Zn) in the project area exceed the existing water quality standards. It is for such an instances that ADEC has developed regulations and guidance for implementing natural condition-based water quality standards. By following the guidance to develop site specific criteria based on background water quality, standards would better reflect existing natural conditions. We believe that this approach would be more protective of salmon and other aquatic species than the proposed approach.

We request that EPA provide us an explanation of the process that will be used to set and adopt site-specific criteria, and also that consultation by EPA with the Native Village of Tyonek occur prior to EPA making a decision regarding the application. In addition, we request a copy of EPA's unofficial comments to the ADEC (Beckwith, 2013) related to the draft application.

Thank you for your time and attention to this matter.

Sincerely,



Heather Kendall-Miller  
Senior Attorney  
Native American Rights Fund